

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

LUIS ALVAREZ HURTADO,

Plaintiff,

v.

JOHN DOE SANCHEZ, *et al*,

Defendants.

Case No. C07-5554BHS-KLS

ORDER TO SHOW CAUSE

This matter has been referred to Magistrate Judge Karen L. Strombom pursuant to 28 U.S.C. § 636(b)(1), Local Magistrates Rules MJR 3 and 4, and Rule 72 of the Federal Rules of Civil Procedure. The case is before the Court upon the Court's review of the complaint. After reviewing the complaint and the balance of the record, the Court finds and orders as follows:

A complaint is frivolous when it has no arguable basis in law or fact. Franklin v. Murphy, 745 F.2d 1221, 1228 (9<sup>th</sup> Cir. 1984). When a complaint is frivolous, fails to state a claim, or contains a complete defense to the action on its face, the court may dismiss an *in forma pauperis* complaint before service of process under 28 U.S.C. § 1915(d). Noll v. Carlson, 809 F.2d 1446, 1448 (9<sup>th</sup> Cir. 1987) (*citing Franklin v. Murphy*, 745 F.2d 1221, 1227 (9<sup>th</sup> Cir. 1984)).

Plaintiff is detainee at the Northwest Detention Center located in Tacoma, Washington. He has filed a complaint for damages against defendants for alleged violations of his federal constitutional rights

1 and of the Americans with Disabilities Act. That complaint, however, contains a number of deficiencies.  
2 For example, plaintiff has made claims against certain individuals with the apparent last names of Wigen,  
3 McBurney, Sadler, McCluskey, and Melendez, but has not specifically named them as defendants in  
4 either the caption or the section of the complaint concerning the parties to this action. As such, it is not  
5 clear if and to what extent plaintiff intended to include them as parties herein.

6 In addition, two of the defendants who plaintiff does expressly name in his complaint appear to be  
7 “John Doe” defendants, even though their last names are provided. However, service of the complaint on  
8 defendants whose full names and addresses are not provided will not be made. Plaintiff, furthermore, has  
9 failed to provide any copies of the complaint or service forms for service on defendants. Finally, plaintiff  
10 has made a number of allegations regarding violations of his constitutional rights, but fails in a number of  
11 instances to set forth facts specifically showing how the actions of defendants, or lack thereof, caused him  
12 actual harm particular to him.

13 As such, due to the deficiencies described above, the Court will not serve the complaint. Plaintiff  
14 shall file an amended complaint, curing, if possible, the above deficiencies, or show cause explaining why  
15 this matter should not be dismissed by **no later than December 29, 2007**. Specifically, plaintiff shall set  
16 out clearly in his amended complaint the full names and addresses, to the extent they are known, of those  
17 individuals he is naming as defendants in this matter. Plaintiff also shall set forth specific facts showing  
18 how those named defendants caused or personally participated in causing the harm alleged.

19 The amended complaint must carry the same case number as this one. If an amended complaint is  
20 not timely filed or if plaintiff fails to adequately address these issues, the Court will recommend dismissal  
21 of this action as frivolous pursuant to 28 U.S.C. § 1915. In addition, plaintiff shall file the appropriate  
22 number of copies of the complaint and service forms for service, including one copy and service form for  
23 each named defendant, as well as, to the extent an officer or employee of the United States is being named  
24 as a defendant as well, one copy and service form each for service on the Attorney General and the United  
25 States Attorney for the Western District of Washington.

26 Plaintiff is advised that an amended pleading operates as a *complete* substitute for an original  
27 pleading. See Ferdik v. Bonzelet, 963 F.2d 1258, 1262 (9<sup>th</sup> Cir. 1992) (citing Hal Roach Studios, Inc. v.  
28 Richard Feiner & Co., 896 F.2d 1542, 1546 (9<sup>th</sup> Cir. 1990) (as amended), *cert. denied*, 506 U.S. 915  
(1992)). Thus, if plaintiff chooses to file an amended complaint, the Court will not consider his original

1 complaint.

2 The Clerk is directed to send plaintiff the appropriate forms so that he may file an amended  
3 complaint. The Clerk is further directed to send a copy of this Order and a copy of the General Order to  
4 plaintiff.

5 DATED this 29th day of November, 2007.

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9 Karen L. Strombom  
10 United States Magistrate Judge  
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